

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BLACK LIVES MATTER SEATTLE-  
KING COUNTY, ABIE EKENEZAR,  
SHARON SAKAMOTO, MURACO  
KYASHNA-TOCHA, ALEXANDER  
WOLDEAB, NATHALIE GRAHAM,  
AND ALEXANDRA CHEN,

Plaintiffs,

v.

CITY OF SEATTLE,

Defendant.

No. 2:20-cv-00887-RAJ

DECLARATION OF RICHARD SMITH

I, Richard Smith, declare and state as follows:

1. The information contained in this declaration is true and correct to the best of my knowledge, and I am of majority age and competent to testify about the matters set forth herein.

2. I am a Seattle resident, and have lived here for the better part of the last nine years. I work as a journalist for The Stranger.

**Labor Day SPOG Protest**

3. On September 7, 2020, I was reporting on the police brutality protests near the Seattle Police Officers Guild ("SPOG"). I arrived at the light rail station in the International District at approximately 5 p.m., where a crowd of between one hundred and two hundred people had gathered. It seemed like a broader coalition of protesters than at other events over the past few months; I saw parents with children, and quite a

1 few people who looked like relatively inexperienced protesters based on their clothing  
2 choices and lack of protective gear.

3 4. At about 5:30 p.m., the protesters began marching, led by a handful of individuals  
4 with bullhorns. Protesters at the front of the crowd held makeshift shields—such as  
5 umbrellas or pieces of particle board—and wore goggles or other protective gear. In  
6 addition to myself, I saw a few other journalists also documenting as the crowd made its  
7 way down 5th Avenue, and then 4th Avenue.

8 5. To my observation, the march was peaceful. I did not witness them being  
9 destructive during the course of the march.

10 6. The march headed to SPOG headquarters on 4th Avenue and gathered in front of  
11 the building. Within minutes of the protesters' arrival, the song "Save a Horse, Ride a  
12 Cowboy" started playing on loudspeakers as a group of 30-40 officers on bikes suddenly  
13 charged the front line of the crowd. This did not seem to have been spurred by any  
14 actions on the part of the protesters; I witnessed no precipitating acts of violence,  
15 intimidation, or property destruction, and the police issued no warning before surging  
16 forward.

17 7. The combination of the music and the simultaneous, unprompted, and sudden  
18 police assault gave me the overwhelming impression that the whole scene was  
19 premeditated. To me, it seemed like an effort at "trolling" the protesters rather than  
20 responding to any actual threat—the entire setup felt choreographed, as if it had been  
21 decided in advance that these officers would charge the crowd, regardless of what the  
22 protesters did or didn't do.

23 8. The force and abruptness of the charge caused chaos in the crowd. Cops used  
24 their bikes to push people back, away from SPOG headquarters, and began making  
25 arrests. None of the arrests I witnessed had a readily apparent justification; to me, they  
26 all seemed random.

**9. The police managed to split the crowd and began deploying blast balls and  
pepper spray to further push people back. Although I wasn't directly hit with  
anything, my eyes began stinging from the amount of chemicals in the air. I**

1       **couldn't discern any rhyme or reason to the use of the blast balls or the spray—just**  
2       **like the arrests, it seemed completely random to me, and targeted less at any specific**  
3       **individuals than at simply disrupting and further splitting the group.**

4       10.     I shared a brief video clip of this initial police charge on Twitter. *See* Tweet by  
5       Rich Smith, September 7, 2020 at 7:18 p.m., [https://twitter.com/richssmith/status/](https://twitter.com/richssmith/status/1303155617209577472)  
6       [1303155617209577472](https://twitter.com/richssmith/status/1303155617209577472).

7       11.     I caught sight of a protester who had clearly been hit by some kind of chemical  
8       weapon—swollen eyes, crying, in need of assistance—in the parking lot across the street  
9       from SPOG headquarters. With my eyes still stinging, I left the main body of the crowd  
10      and walked towards her, but was blocked by a police officer as I tried to enter the lot. He  
11      grabbed me by my shoulders and shoved me back out onto the street.

12      12.     As the crowd of protesters was pushed further down the street from SPOG, a line  
13      of police cruisers and a bearcat vehicle appeared and began rolling slowly towards them.  
14      As these vehicles advanced, I finally heard the first dispersal order. Immediately,  
15      protesters began exhorting each other to start moving and clear the area; I remember  
16      repeated yells of, “Let’s go, let’s go, let’s go.” Some protesters were trying to make their  
17      way back through the crowd to help injured friends, but protest leaders were adamant that  
18      everyone keep moving. This is consistent with my understanding from protest leaders in  
19      similar situations, who make it the primary goal for the crowd to stick together and retreat  
20      safely, without being forced to split into smaller segments. Hectically, the crowd moved  
21      north, complying with police orders.

22      13.     I captured footage of the front line of bike officers continuing to push this retreat  
23      while grabbing umbrellas and shields from protesters and throwing blast balls at the  
24      crowd. I posted this video to my Twitter feed. *See* Tweet by Rich Smith, September 7,  
25      2020 at 7:47 p.m., <https://twitter.com/richssmith/status/1303162681663262727>.

26      14.     As the crowd retreated, police formed another bike line and followed, yelling,  
“Move, move, move!” Protesters continued to hurry north, but officers began arresting  
people even as the group complied.

1       15.     **SPD officers also occasionally deployed blast balls or pepper spray into the**  
2       **ranks of the crowd, which caused episodes of brief chaos as people screamed, tried**  
3       **to shield themselves, or tried to protect others.**

4       16.     Every now and then, officers would also snatch umbrellas or makeshift shields  
5       out of protesters' hands, or shove stragglers at the back or outskirts of the crowd. On my  
6       Twitter page, I shared a video clip of officers yanking umbrellas from retreating  
7       protesters and firing rubber bullets into the crowd. *See* Tweet by Rich Smith, September  
8       7, 2020 at 7:49 p.m., <https://twitter.com/richsssmith/status/1303163450248450049>.

9       17.     A few people at the rear of the crowd would sometimes walk backwards, facing  
10      the line of police bicycles and filming as the group moved north. These bike officers  
11      would frequently ride rapidly towards the back line of the crowd and then abruptly turn  
12      their bikes and skid to a halt less than a foot before the retreating protesters, many of  
13      whom were filming. I could discern no purpose for this other than intimidation, as it  
14      didn't speed the crowd up, and the officers often only narrowly avoided hitting the  
15      individuals they had charged towards. I posted a brief video clip documenting an  
16      example of this behavior on my Twitter feed. *See* Tweet by Rich Smith on September 7,  
17      2020 at 9:15 p.m., <https://twitter.com/richsssmith/status/1303185246372769793>.

18      18.     The police kept the crowd moving at a brisk pace. When one protester collapsed  
19      on the side of the road, breathing heavily and seemingly suffering from an injury, others  
20      stopped to help but were shooed along by the police, who insisted that they would take  
21      care of it. From this, I got the impression that if anyone fell behind, they would be  
22      separated from others in their group while the crowd continued to be herded forward.

23      19.     As I marched along at the back of the crowd, using my phone to film clips of the  
24      ongoing retreat, I experienced a startling act of police hostility. Even though I was  
25      wearing a visible press badge and was clearly documenting the protest, an officer on a  
26      bicycle veered suddenly towards me, said, "Get the hell out of here!" and smacked my  
    phone out of my hand. It tumbled to the ground, and he rode off. I was stunned—this  
    officer had gone out of his way to aggressively, physically prevent me from doing my  
    job. Despite my clearly visible press credentials, and despite the fact that I was doing

1 nothing other than filming while continuing to retreat, he struck my phone out of my  
2 hands and cursed at me while telling me to leave. This aggression seemed to be directed  
3 at me for no other reason than that I am a journalist documenting the police.

4 20. A video clip of the officer knocking my phone out of my hands can be found on  
5 my Twitter feed. See Tweet by Rich Smith, September 7, 2020 at 9:10 p.m., [https://](https://twitter.com/richssmith/status/1303183854669160453)  
6 [twitter.com/richssmith/status/1303183854669160453](https://twitter.com/richssmith/status/1303183854669160453).

7 21. I have never experienced this kind of direct, targeted aggression from police  
8 before. In previous situations, I have felt or inferred a latent distaste for the press, but it  
9 has never been made explicit or channeled in such a way as to impede my ability to do  
10 my job. I am highly disturbed by this development, and, for the first time since these  
11 protests began, I now feel the need to wear protective gear while reporting. It is clear to  
12 me the at the police's posture towards these demonstrations, and towards the journalists  
13 covering them, is becoming increasingly belligerent. I do not intend to let this kind of  
14 intimidation prevent me from doing my job, but I am now aware that I need to take  
15 precautions; my press badge may be more provocation than protection.

16 22. The forced retreat concluded two miles away from SPOG, in Judkins Park. The  
17 police had kept the crowd moving at a brisk pace the entire time, arresting people  
18 sporadically throughout and occasionally charging the outskirts of the crowd with their  
19 bikes. At the park, both police and protesters finally dispersed. I was left to contemplate  
20 the newly emboldened displays of police aggression that I had just witnessed.

21 23. I continue to feel that the police response at SPOG headquarters was a dark, real-  
22 world version of "trolling"—violence set to a soundtrack, and maybe even laughable to  
23 those orchestrating it. It certainly seemed as though the police did not take the evening's  
24 events seriously. It felt like a twisted, punitive game. They had the song queued up, and  
25 they had a plan that they were clearly determined to execute, whether or not protesters  
26 remained peaceful. In the end, it struck me as a winking nod to their own impunity—  
they can blare music while they charge a peaceful crowd and fire chemical weapons at  
nonthreatening protesters, all while resting secure in the knowledge that they will face  
nothing other than, at most, a slap on the wrist.

**September 23, 2020 Capitol Hill Protest**

24. On September 23, 2020, I again reported on a protest event. This one took place in the Capitol Hill neighborhood and was organized largely in response to the news that Breonna Taylor's killers had not been indicted for her death.

25. I joined a group of approximately one hundred people at 7 p.m. in Cal Anderson park. At around 8:15, the group began marching; they left the park and headed west on Madison Ave. towards downtown. The crowd was followed by three protest vehicles as part of the "car brigade," and approximately six police cruisers, which remained about a block away as they tailed the march.

26. The vast majority of the marchers were peaceful and non-destructive. I witnessed a few individuals engage in targeted property damage, such as by smashing parking meters, but the police following the crowd did not engage these individuals.

27. When the march reached 4th Ave. at approximately 8:45 p.m., one or two people smashed windows at a nearby Starbucks. By this point, more police vehicles had arrived, as well as a unit of officers on bikes. **A garbled dispersal order was issued by someone who self-identified as a commander. I heard this order because I was reporting from behind the crowd, right next to the police line, but the sound was muddled even at close proximity. I thought it was unlikely that the protesters—who were a half a block to a block away—would be able to hear it.**

28. The police then marshaled around one of the three cars making up the small car brigade. They cut off the vehicle and arrested its driver. I did not observe anything that might have precipitated the arrest.

29. Shortly afterwards, a few officers on bikes moved in on the crowd and arrested two people. Again, I did not directly observe anything that precipitated those arrests.

30. The crowd seemed distressed by the conflict with police, and a few individuals toppled signs or garbage cans into the road as the march looped back towards Capitol Hill, but the overwhelming atmosphere at this point remained peaceful. When the crowd

1 reached a residential part of the First Hill neighborhood, the police suddenly turned on  
2 their vehicles' lights and sirens and began slowly circling nearby streets with lights  
3 flashing and sirens wailing. They did not otherwise engage with the protesters, and I did  
4 not witness anything that seemed to necessitate the display; to me, it seemed like an effort  
5 at intimidation, asserting the force of their presence.

6 31. The march continued back to Cal Anderson park in Capitol Hill. The police  
7 continued the display of lights and sirens but did not make any further arrests or  
8 otherwise interact with protesters. At the park, the group debriefed and listened to a few  
9 speeches; a few people danced, and at least one person played the flute. After a while, at  
10 approximately 9:45 p.m., the group decided to go out on another march, this time on a  
11 shorter route through Capitol Hill.

12 32. The march departed from Cal Anderson park, chanting Breonna Taylor's name,  
13 and circled through residential Capitol Hill. As it passed beneath apartment buildings,  
14 some residents called back in support or stood at their windows with fists raised in  
15 solidarity. The march made its way to the intersection of 11th and Pine after completing  
16 a short loop through the neighborhood. The group set up a light barricade in the  
17 intersection; some people were playing improvised instruments. Police officers stationed  
18 themselves nearby at the precinct on 12th and Pine and about a block further up the hill  
19 on 13th and Pine.

20 33. A small group of three to four protesters broke off from the crowd and approached  
21 the open garage at the police precinct, where officers were stationed with bicycles. One  
22 of those individuals appeared to throw a firework into the garage, prompting the officers  
23 stationed at 13th and Pine to issue an instruction against any further pyrotechnics. I did  
24 not see any action taken specifically against the individual who threw the firework.

25 34. A little while later, another small group of protesters approached the police  
26 stationed by the precinct. Out of curiosity, I followed them. They yelled at the officers  
for a minute or two, and then walked back to rejoin the main group. Although taunting,  
they did not seem threatening.

1 35. Shortly after this interaction, the police vehicles that had been stationed at 13th  
2 and Pine drove up to 12th and appeared to observe the scene. **A moment later, the**  
3 **police on bikes charged towards the crowd at 11th and Pine, deploying pepper spray**  
4 **at anyone who didn't move out of the way quickly enough; the protesters retreated**  
5 **while trying to shield themselves with umbrellas. I am not sure what caused the**  
6 **sudden push, as it did not appear to have been in reaction to any immediately**  
7 **preceding property damage or threats.** I posted a brief clip of the officers' use of  
8 pepper spray to my Twitter feed. See Tweet by Rich Smith on September 23, 2020 at  
9 11:07 p.m., <https://twitter.com/richssmith/status/1309011578705137664>.

10 36. Eventually, the police retreated somewhat, and the protesters reformed their line  
11 at 11th and Pine. Down the block, more police cars had massed and were flashing their  
12 lights and sirens. Officers were now issuing regular orders to disperse, calling the protest  
13 an "unlawful assembly," but the crowd was unwilling to leave.

14 37. A few protesters set up a light barricade again and used trash from nearby garbage  
15 cans to light two fires in the street. The fires appeared to be controversial—I overheard  
16 disagreement about whether they were appropriate, with some protesters admonishing  
17 those lighting the fires to stop it and put them out. **Shortly afterwards, the police**  
18 **abruptly advanced again, deploying pepper spray around the barriers and throwing**  
19 **blast balls indiscriminately into the crowd.** I posted a video clip of this to my Twitter  
20 page, where the use of a blast ball being thrown overhand into the group of protesters is  
21 documented at 0:13. See Tweet by Rich Smith on September 23, 2020 at 11:49 p.m.,  
22 <https://twitter.com/richssmith/status/1309022066566463488>.

23 38. The police pushed the crowd down Pine to Broadway, where they then forced the  
24 crowd out of the intersection and onto the sidewalk. Officers used their bikes to shove  
25 protesters out of the way, yelling, "Move back!" The scene was chaotic—there was too  
26 large of a crowd to fit easily on the sidewalk, and protesters were jostled hectically  
together as they tried to comply despite having limited room to move. I was caught in a  
tight pocket of the crowd and was unable to observe the full scene due to my vision being  
partially obscured by a protester's umbrella, but **I remember that as we were pushed**



1 back, an officer attempted to seize the umbrella of another individual near me. I  
2 had my phone out, attempting to film despite the poor light and frenetic  
3 atmosphere. There was a brief struggle, and the protester holding the umbrella fell  
4 to the ground. An officer immediately used some kind of rifle to fire three rounds of  
5 rubber bullets into the downed protester at close range. This can be witnessed in a  
6 clip I posted to my Twitter feed at the 0:07 mark. See Tweet by Rich Smith, September  
7 24, 2020 at 1:08 a.m., <https://twitter.com/richssmith/status/1309041882929008642>.  
8


9 39. By this point, the aggression with which the police were treating the crowd struck  
10 me as tinged with genuine anger. I have since learned that, earlier in the evening, an  
11 individual had broken away from the main body of the crowd and struck an officer in the  
12 head with a bat. In hindsight, I wonder if the force of the police response at Broadway  
13 and Pine was a reaction to that assault—it certainly felt as though a switch had been  
14 flipped, and the officers were suddenly and markedly more violent than earlier in the  
15 night.

16 40. **Police continued to deploy pepper spray and blast balls.** I also witnessed  
17 several more arrests before the protest group split into two and both began moving on  
18 different routes through Capitol Hill. They continued to be pursued by police, but I was  
19 too exhausted to continue reporting. I walked back home, picked up my laptop, and then  
20 walked to my partner's home nearby to begin writing up my notes. **As I headed to her**  
21 **apartment, I continued to hear blast balls detonating in the distance and felt the**  
22 **lingering effects of gas and spray in the air even though I estimated that it had been**  
23 **at least a half hour since the protest had been nearby.**

24 41. I am disheartened by the cycle of conflict that I continue to witness at these  
25 demonstrations. Further, I am concerned that attitude of the Seattle Police Department  
26 towards protests is worsening, not improving. I see very little that might make them  
change. Rather than expect them to change, I feel resigned to the violence, and realize  
that I will need to adapt my own behaviors to account for their increasing aggression as I  
continue to report on these issues.

1 Executed this 28th day of September 2020 at Seattle, Washington.

2 I declare under penalty of perjury under the laws of the United States and the State of  
3 Washington that the foregoing is true and correct.

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5   
6 By: \_\_\_\_\_

7 RICHARD SMITH  
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